

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

ANGEL IRIZARRY,

Plaintiff,

v.

K. KAUFFMAN, *et al.*,

Defendants.

No. 4:22-CV-01892

(Chief Judge Brann)

(Chief Magistrate Judge Mehalchick)

**ORDER**

**SEPTEMBER 20, 2023**

Angel Irizarry and several co-plaintiffs previously filed a civil rights complaint—which was amended three times—alleging that their rights were violated by Defendants as related to the conditions of confinement at Pennsylvania State Correctional Institution Huntingdon.<sup>1</sup> Irizarry’s co-plaintiffs were severed from this matter, and Irizarry was directed to file a fourth amended complaint.<sup>2</sup> Irizarry filed a fourth amended complaint, and Defendants moved to dismiss in part that complaint.<sup>3</sup>

In May 2023, Chief Magistrate Judge Karoline Mehalchick issued a Report and Recommendation recommending that this Court grant the motion to dismiss and

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<sup>1</sup> Docs. 1, 35, 72, 101, 102, 104, 108.

<sup>2</sup> Doc. 223.

<sup>3</sup> Docs. 224, 225.

dismiss in part Irizarry's fourth amended complaint.<sup>4</sup> After receiving an extension of time,<sup>5</sup> Irizarry filed timely objections to the Report and Recommendation.<sup>6</sup>

"If a party objects timely to a magistrate judge's report and recommendation, the district court must 'make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.'"<sup>7</sup> Regardless of whether timely objections are made, district courts may accept, reject, or modify—in whole or in part—the magistrate judge's findings or recommendations.<sup>8</sup> After reviewing the record, the Court finds no error in Chief Magistrate Judge Mehalchick's conclusion that Irizarry's fourth amended complaint should be dismissed in part. Accordingly, **IT IS HEREBY ORDERED** that:

1. Chief Magistrate Judge Karoline Mehalchick's Report and Recommendation (Doc. 236) is **ADOPTED**;
2. Defendants' partial motion to dismiss (Doc. 225) is **GRANTED**;
  - A. Count 1 is **DISMISSED** with prejudice as against all defendants except for John Wetzel;
  - B. Count 2 is **DISMISSED** with prejudice;
  - C. Count 3 is **STRICKEN** from the fourth amended complaint; and

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<sup>4</sup> Doc. 236.

<sup>5</sup> Doc. 238.

<sup>6</sup> Docs. 239, 242, 243, 246.

<sup>7</sup> *Equal Emp't Opportunity Comm'n v. City of Long Branch*, 866 F.3d 93, 99 (3d Cir. 2017) (quoting 28 U.S.C. § 636(b)(1)).

<sup>8</sup> 28 U.S.C. § 636(b)(1); Local Rule 72.31.

3. This matter is **REMANDED** to Chief Magistrate Judge Mehalchick for further proceedings.

BY THE COURT:

*s/ Matthew W. Brann*

Matthew W. Brann

Chief United States District Judge